



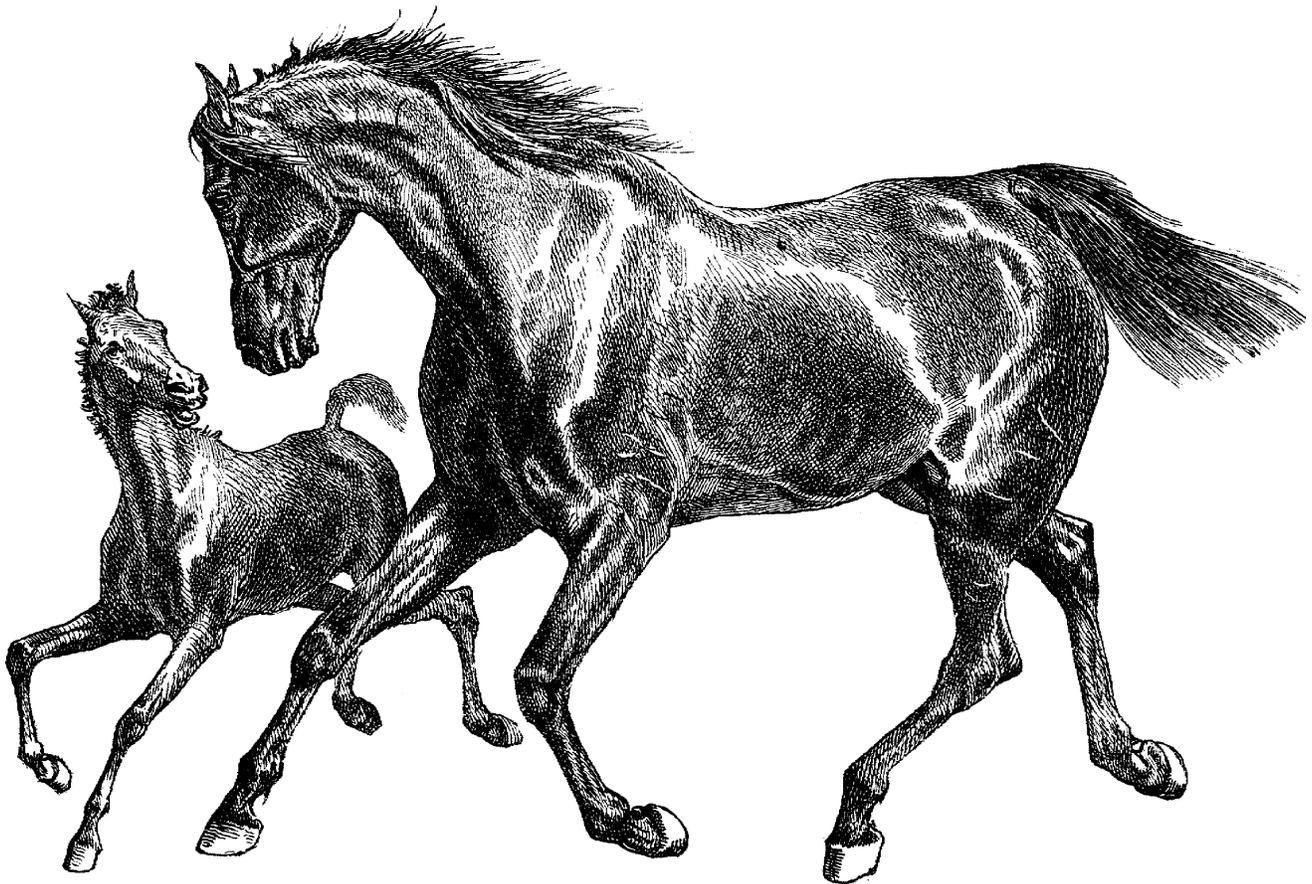
United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

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Horse Protection Enforcement

Fiscal Year 1999



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History of the Horse Protection Act

In 1970, Congress passed the Horse Protection Act (HPA) (P.L. 91-540), to prohibit the showing, sale, auction, exhibition, or transport of sored horses. Congress found and declared that the soring of horses is cruel and inhumane and that sored horses, when shown or exhibited, compete unfairly with horses that have not been sored. The HPA was amended in 1976 (P.L. 94-360) to expand the inspection program; for a discussion of this amendment, see "Administration of the HPA."

"Soring" is defined as the application of any chemical or mechanical agent to any limb of a horse, or any practice inflicted upon any limb of a horse, that can cause or be expected to cause the horse to suffer physical pain or distress when moving. The soring of horses is primarily aimed at producing an exaggerated gait when showing horses in competition. This practice is primarily used in the Tennessee Walking Horse and related breeds.

Although a similar gait can be obtained in these horses by conventional training methods, soring achieves the desired gait with less effort and over a shorter period of time. People who exhibit sored horses sustain an unfair performance advantage over those who exhibit horses that have not been sored.

Under the Act, no one, including trainers, riders, owners, or representative agents, can legally enter a horse that has been sored into a show, sale, or auction. Management of a horse show or sale has the statutory responsibility to identify and prevent sored horses from entering into competition or being offered for sale at these events.

Administration of the HPA

The HPA is administered by the U.S. Department of Agriculture (USDA) through the Animal and Plant Health Inspection Service (APHIS). A 1976 amendment to the Act led to the establishment of the Designated Qualified Person (DQP) program. A DQP is a person meeting the requirements set forth in Title 9, Section 11.7, of the Code of Federal Regulations (CFR).

Individuals who have been licensed under this regulatory section as a DQP are usually farriers, trainers, or people with a basic knowledge of horses and the equine industry. Additionally, Section 11.7 allows certain Doctors of Veterinary Medicine to become licensed as DQP's without having to participate in formal training. These veterinarians must be accredited in any State by the USDA and (1) members of the American Association of Equine Practitioners, (2) large-animal practitioners with substantial equine experience, or (3) practitioners knowledgeable in the area of equine lameness as related to soring.

The DQP program provides one of the primary mechanisms for detecting sored horses. Horse Industry Organizations (HIO's) maintaining certified DQP programs participate with APHIS in yearly DQP training seminars, refresher clinics, educational forums, and program operations. Regulatory policy, procedure, and methods of inspection are reviewed throughout the year with representatives of the horse industry to enforce and strengthen training programs. APHIS veterinarians provide regulatory instruction and guidance incorporating classroom as well as hands-on instruction with horses at training sessions. APHIS builds upon these training programs and strengthens its working relationship with the equine industry through regularly scheduled horse-protection training classes attended by certified HIO's and industry representatives.

Compliance inspections for the 1999 show season were conducted in accordance with provisions of the HPA, relevant sections of the CFR, inspection guidelines, and the Operating Plan for the 1999 Horse Show Season (OP99). HIO's regulate their internal activities in accordance with the Horse Protection regulations and through their own established rulebook standards and regulations. An HIO penalty system, approved by USDA, for the industry acts as a deterrent against entering sore horses at shows and sales. Certified HIO's impose penalties for HPA violations that DQP's identify at shows and sales where they inspect horses.

Licensed DQP's receive inspection assignments to various shows and sales through their certified organization. Affiliation by show or sale management with a certified HIO permits show management to fulfill its inspection responsibilities. When managers of a show, sale, auction, or exhibition do not affiliate with a certified HIO to secure inspections by a licensed DQP, they are held accountable, along with the offending individual, for any violations of the HPA that occur at their show or sale. Affiliation with a certified HIO and the use of licensed DQP's by show management is not mandatory. Managers of many shows and sales, however, utilize DQP's to limit their liability under the HPA if a horse is shown or sold while sore. APHIS strives to ensure that the certified HIO's effectively identify sore horses, impose proper penalties, and assist the agency in its goal of eliminating of the practice of soring horses. APHIS officials also monitor as many unaffiliated horse shows—those that do not affiliate with a certified HIO and hire a DQP—as time and resources allow.

During calendar year 1999, 8 USDA-certified HIO's provided the industry with 171 licensed DQP's. Participating organizations and the number of DQP's licensed were

Heart of America Walking Horse Association (27),
Horse Protection Commission (22),
Kentucky Walking Horse Association—HIO (28),
Missouri Fox Trotting Horse Breed Association (24),
National Horse Show Commission (40),
National Walking Horse Association (9),
Spotted Saddle Horse Breeders and Exhibitors
Association (11), and
Western International Walking Horse Association
(10).

To ensure consistency and fairness, certified HIO's honor each other's suspensions, share penalty information, and cooperate on compliance issues. APHIS provides HIO's with changes in agency policy to promote uniformity of methods and procedures. APHIS monitors compliance by reviewing all management, HIO, and DQP reports that are filed with the agency as required under the regulations and by conducting audits of records maintained by the certified DQP programs. Similarly, APHIS veterinary medical officers (VMO's) evaluate HIO inspection procedures and individual DQP's at selected shows and sales.

In addition to HIO penalties assessed against violators of the HPA, APHIS may also bring administrative or criminal complaints against violators. Administrative complaints may result in civil penalties of not more than \$2,000 for each violation and an order disqualifying the violator from showing or exhibiting horses or otherwise participating in any horse event except as a spectator. Periods of disqualification are determined on a case-by-case basis but can be no less than 1 year for the first violation and no less than 5 years for subsequent violations. However, violators are given the opportunity to enter into a consent agreement in order to reduce the burden of litigation and provide for prompt resolution. Criminal penalties of up to \$3,000 and 1 year in prison can be assessed against individuals who knowingly violate the Act. Each additional violation may result in fines of up to \$5,000 and imprisonment for up to 2 years.

Administrative Initiatives

In fiscal year (FY) 1996, APHIS began taking steps to improve the efficiency and effectiveness of the HPA program. These steps initially resulted in the Horse Protection Strategic Plan that was released at a meeting with all six existing HIO's in December 1997. The Strategic Plan gave greater responsibility to the HIO's for enforcing the provisions of the HPA by defining roles for the HIO's and USDA.

The plan became effective on March 1, 1998. However, because of concerns over some aspects of the plan, it was not fully implemented until July 1, 1998. Despite this accommodation, only one of the six HIO's certified at the time, the Horse Protection Commission, opted to function under the provisions of the plan. To assure enforcement of the HPA, APHIS proceeded with prosecution of violations of the HPA through the USDA's administrative law system at those shows affiliated with the other HIO's. APHIS did allow, however, for any violator to accept an HIO penalty, as outlined in the Strategic Plan, instead of being prosecuted through a formal Federal case.

1999 Operating Plan

To continue its working relationship with the HIO's, APHIS held meetings in June and December 1998, to discuss HIO concerns about the Horse Protection Program. In response to discussions during these meetings, APHIS began working on an operating plan for the 1999 show season. The result was the HP Operating Plan for the 1999 Horse Show Season, or OP99. The plan was a voluntary agreement between the HIO's and APHIS. As a trial plan, it was made effective for the 1999 horse show season only and expired on December 31, 1999. The purpose of this plan was to enhance enforcement of the HPA through an effective working partnership with the HIO's. The plan defined a uniform set of penalties for various HPA violations that are less stringent than those normally imposed through the USDA administrative law system but more stringent than what traditionally had been imposed by the HIO's in previous years. Under the terms of OP99, HIO's were allowed to assume a primary enforcement role at their affiliated shows and impose the penalties listed in the plan for violations of the HPA. APHIS continued to maintain the primary enforcement role at unaffiliated shows.

During discussions of OP99, several HIO's expressed concern over the imposition of what they viewed as inappropriately harsh penalties on a person who might innocently enter in a show a horse that was in violation of the HPA scar rule, when that person had not been responsible for causing the scarring. Such a situation might occur when a person unfamiliar with HPA rules and regulations purchases a horse with excessive scarring on its pasterns and then brings the horse to a show, only to be faced with a penalty when he or she finds that entering a horse in such condition is a violation of the HPA.

In response to these concerns, APHIS established a two-tiered penalty system for scar rule violations in OP99. This was done by establishing two categories of scarring, active and inactive. Active scarring was that which resulted from a horse having been recently soled. Inactive scarring was scarring found to be old and quiescent and not indicative of recent abuse. A penalty of 3 months' suspension was to be imposed for a first violation for active scarring. A less severe penalty of disqualification of the horse from the show was imposed for inactive scarring.

APHIS Evaluation of the DQP Program in 1999

OP99 also contains provisions for resolving disputes between APHIS VMO's and DQP's over findings on examination of horses at a show. During the 1999 show season, 40 such disputes were submitted for resolution. These are detailed in the section "Conflict Resolution Under OP99."

In September 1999, APHIS met with the eight current HIO's to discuss problems encountered during the show season related to provisions of OP99. A number of problems were identified and addressed in a revised version of the operating plan intended for implementation during the 2000 horse show season. A draft version of this revised plan was presented to the HIO's and discussed with their representatives at another meeting sponsored by APHIS in November 1999. Comments from the HIO's received at this meeting resulted in several changes to the plan. The final version, the Operating Plan for the 2000 Horse Show Season, was sent to the HIO's for their consideration in December 1999.

During the 1999 horse show season, 8 certified HIO's monitored 544 shows, sales, auctions, and exhibitions. Of the 110,317 horses examined by DQP's at those events, 713 were found to be in noncompliance with the HPA (average noncompliance rate of 0.66 percent). DQP's were evaluated by APHIS personnel who attended 67 affiliated shows and sales where 22,086 horses were presented for inspection. The number of horses found to be in noncompliance in the presence of APHIS inspectors was 329 (average noncompliance rate of 1.49 percent). Of the 88,231 horses examined by DQP's when APHIS was not present, 384 were found to be in noncompliance with the HPA (average noncompliance rate of 0.43 percent).

Additionally, APHIS attended 8 unaffiliated shows where 1,598 horses were entered. Three horses were found in noncompliance with the HPA (average noncompliance rate of 0.19 percent). APHIS attended 12.5 percent of all shows, sales, auctions, and exhibitions where a certified DQP program provided inspection services. At these shows, APHIS VMO's observed 20 percent of all horses inspected by the certified DQP programs. Table 1 provides a detailed breakdown and review of horse industry performance and the results obtained with and without the presence of APHIS inspectors during 1999.

Table 1—Horse shows, sales, auctions, and exhibitions monitored in fiscal year 1999

Horse industry organization (HIO)	APHIS present				APHIS not present			
	Shows	Horses examined	Violations found	Noncompliance rate (%)	Shows	Horses examined	Violations found	Noncompliance rate (%)
Heart of America Walking Horse Association	10	1,657	30	1.81	44	6,801	15	0.22
Horse Protection Commission	2	1,040	4	0.38	19	3,402	10	0.29
Kentucky Walking Horse Association	8	1,772	40	2.26	54	8,747	17	0.19
Missouri Fox Trotting Horse Breed Association	4	2,627	4	0.15	26	3,695	3	0.08
National Horse Show Commission	32	10,552	223	2.11	277	52,826	325	0.62
National Walking Horse Association	4	2,251	4	0.18	26	5,649	6	0.11
Spotted Saddle Horse Breeders and Exhibitors Association	4	939	16	1.70	25	4,911	8	0.16
Western International Walking Horse Association	3	1,248	8	0.64	6	2,200	0	0
Totals	67	22,086	329	1.49	477	88,231	384	0.44
Totals for HIO-affiliated events	544	110,317	713	0.66				
Totals for unaffiliated events	8	1,598	3	0.19				

Figure 1 illustrates the 3-year trend of the HPA regarding the number of (1) events inspected by DQP's and/or APHIS VMO's and (2) horses inspected.

Figure 2 illustrates the noncompliance detection rates at shows and sales by certified HIO's when APHIS inspectors are present and when they are not in attendance. The chart documents an overall higher noncompliance detection rate within the HIO's when APHIS is present at shows or sales. APHIS randomly attends horse shows and sales that have affiliation with certified HIO's. Variation in the number of these shows attended by APHIS fluctuates from season to season as a result of show logistics, resources, and agency workload.

Figure 3 relates the percentage of horse shows and sales affiliated with the certified HIO's that APHIS attended in 1999.

Figure 1
Monitoring Horse Protection
Three-Year Annual Summary

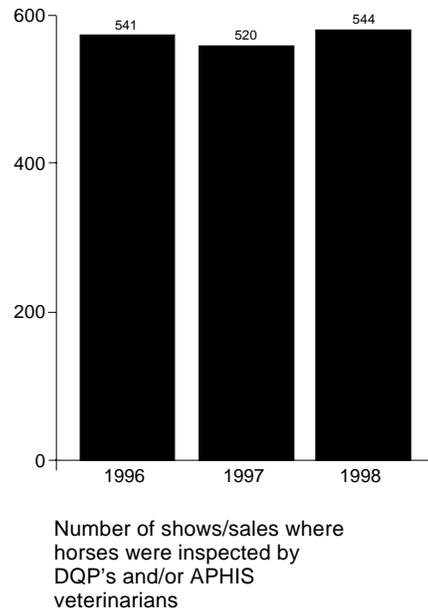
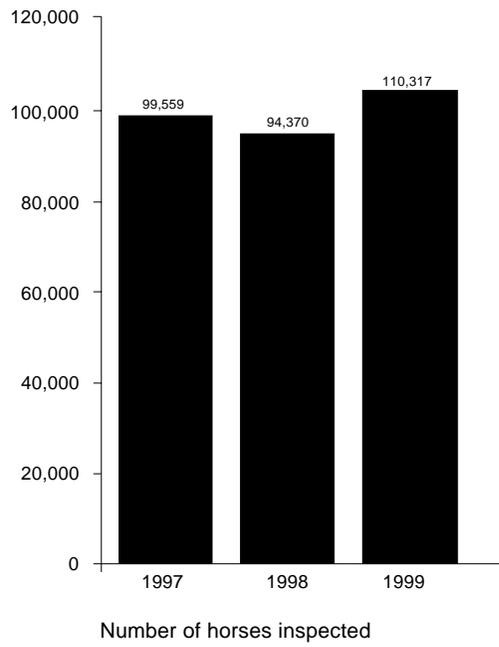


Figure 2

HIO Performance

Noncompliance Rate by HIO's in 1999, by Percentage

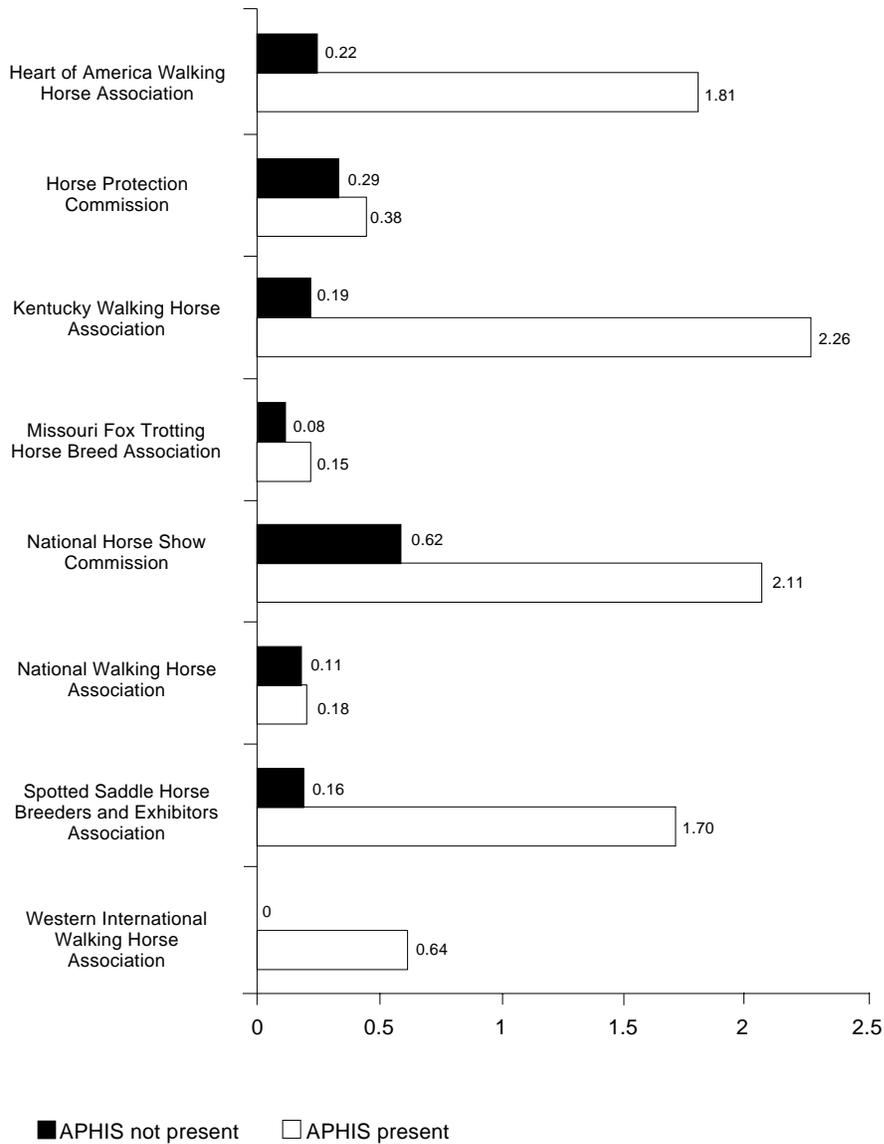
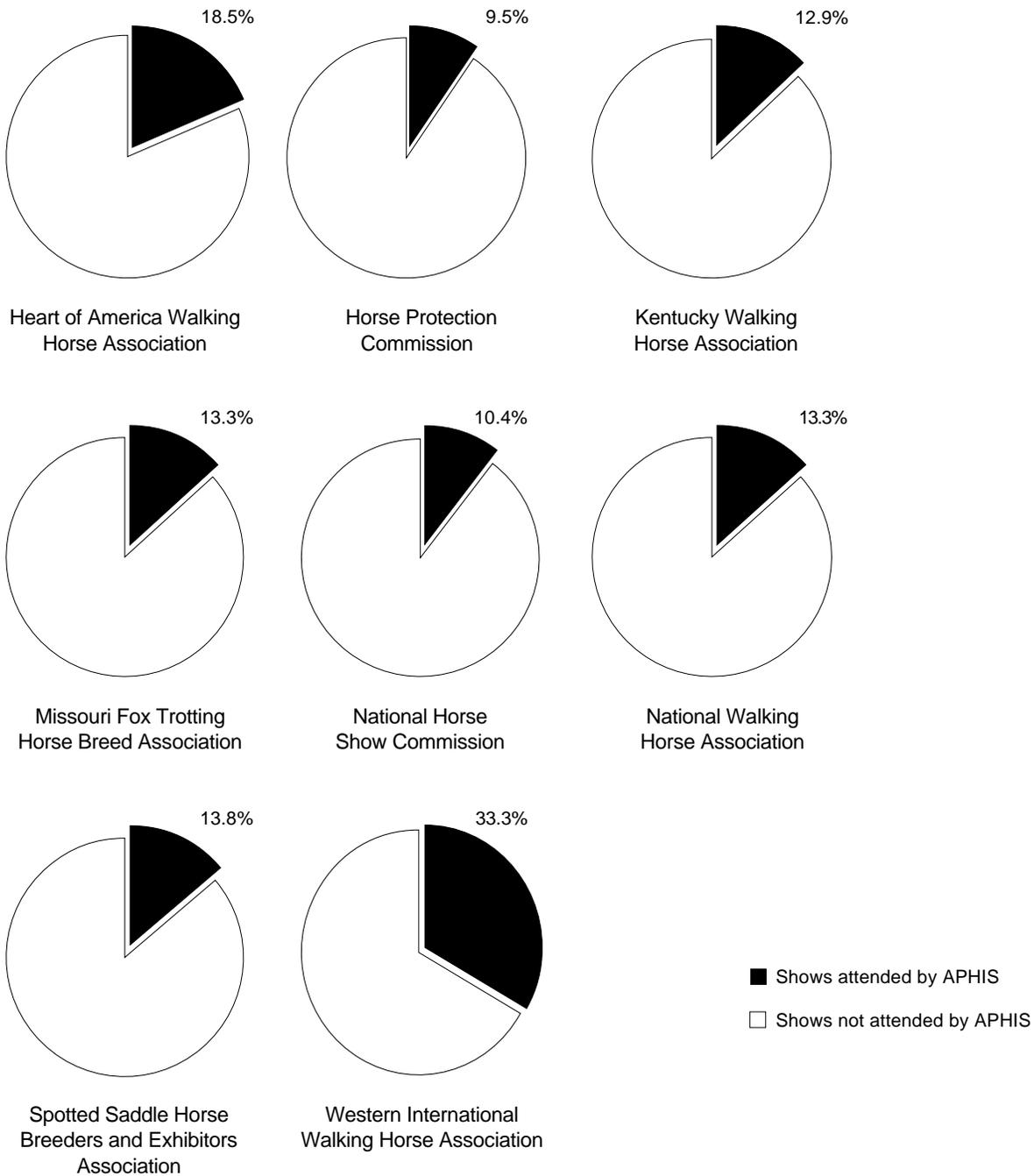


Figure 3
**Percentage of Shows and Sales Attended
 by APHIS, by HIO, FY 1999**



Conflict Resolution Under OP99

OP99 was an agreement between APHIS and the HIO's whose purpose was to enhance the enforcement of the HPA through a cooperative partnership between APHIS and the certified HIO's. One provision of the OP99 placed initial enforcement responsibility with the HIO's at those shows and sales affiliated with their organizations. APHIS indicated in the language of OP99 that it was not relinquishing any of its authority under the HPA. APHIS VMO's were instructed to document violations for potential Federal prosecution on cases where it was determined that a DQP at a show attended by APHIS did not properly identify a violation of the HPA.

Since disagreements between VMO's and DQP's on findings during examination of horses sometimes occur, the HIO's requested that a process be established to resolve these conflicts. OP99 established procedures to accomplish the resolution of such conflicts. Written documentation on each such case was presented by the DQP's and VMO's to their respective coordinators. The coordinators then worked to resolve the case. If they could not come to an agreement, the case was then referred to the chairman or president of the HIO and to the APHIS deputy administrator for Animal Care for resolution.

During the 1999 show season, 40 cases were presented for conflict resolution. Of these cases, 39 arose from shows affiliated with the National Horse Show Commission and 1 case arose from a show affiliated with the National Walking Horse Association. As of April 2000, findings of the DQP's had been upheld in 18 of these cases and the findings of the VMO's had been upheld in 22 cases. One case had been removed from the conflict resolution process and submitted to USDA's Office of the General Counsel (OGC) for administrative prosecution. In 25 of these cases, penalties set by OP99 were imposed by the National Horse Show Commission. In five cases the charges had been dismissed. Of the 25 cases, 9 were appealed to the commission's hearing committee after they had been resolved by APHIS and the commission. Of these, six had been dismissed by the Hearing Committee as being unfounded and three had been upheld. Two cases were still pending, including the case submitted to OGC.

1999 Legal Proceedings

During 1999, APHIS initiated 27 investigations of alleged violations of the HPA and associated regulations. Sorring accounted for 19 of the alleged violations. Violations of disqualification orders accounted for the remaining eight alleged violations. APHIS' Investigative and Enforcement Services headquarters staff received 21 of the initiated investigations for further review and potential legal action. OGC received 32 cases for prosecution. In addition to the initiated investigations, APHIS issued 30 administrative complaints. Administrative law judges issued a total of 14 decisions resulting in 13 disqualifications and civil penalties totaling \$18,000. Because most cases involve several respondents, more than one consent decision is often issued. APHIS issued no official warnings for technical violations. A summary of the legal proceedings is illustrated in figures 4 and 5.

Legislative and Regulatory Recommendations

USDA does not anticipate the need for additional legislation at this time.

As a result of public comments and suggestions received at the three public meetings held in 1996, several initiatives were proposed in the Horse Protection Strategic Plan. The Strategic Plan was released to the HIO's and the public in December 1997. APHIS anticipates it will be proposing several additions and changes to the Horse Protection regulations based on these initiatives. APHIS expects these proposals for regulatory changes to be announced in the Federal Register in 2000.

Figure 4
Horse Protection Enforcement
Apparent Violations of the HPA, FY 1997–99

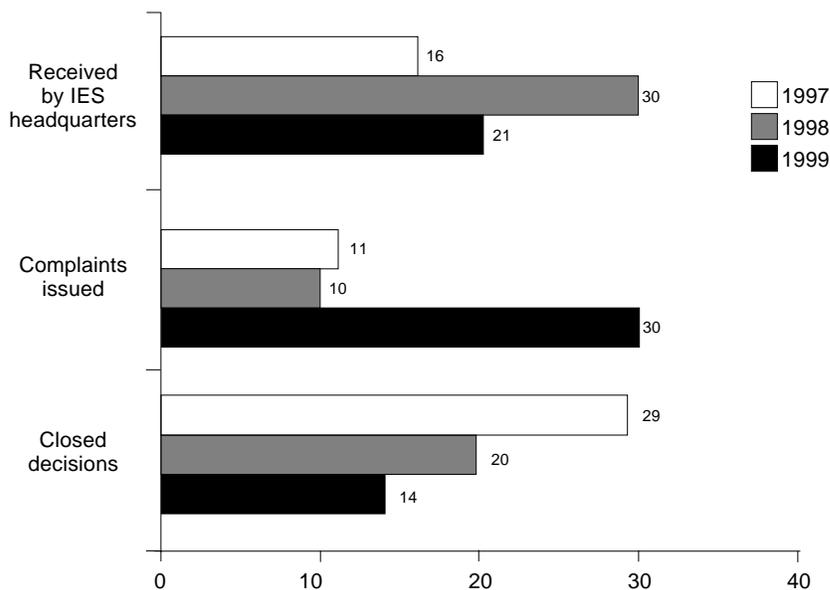
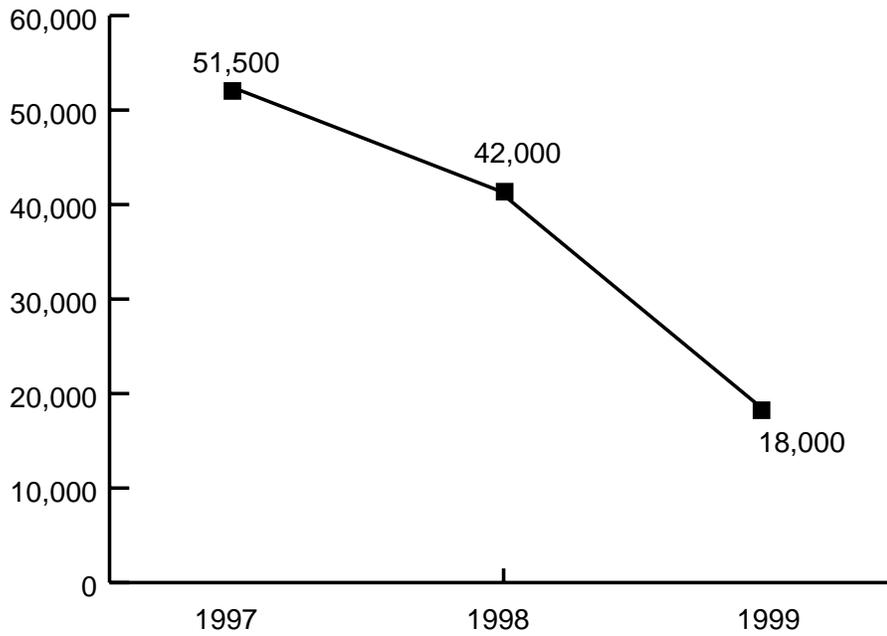
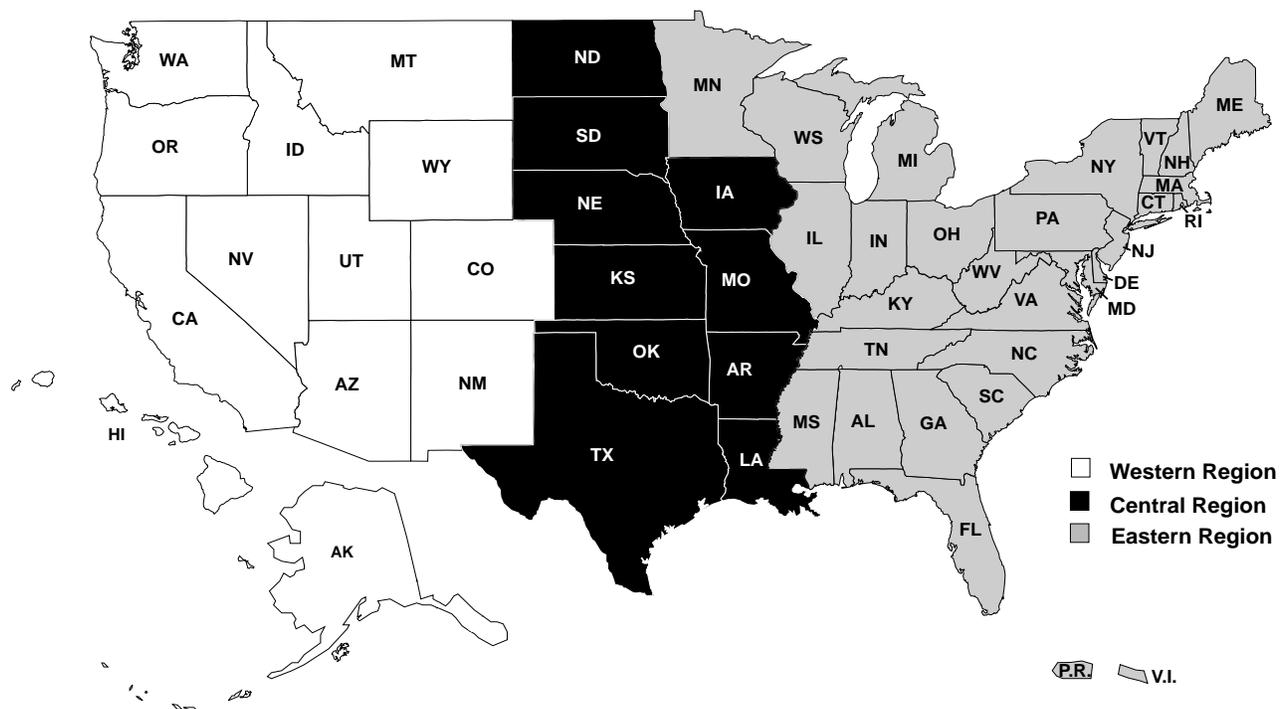


Figure 5
Horse Protection Enforcement
**Dollar Value of Assessed Penalties Under
the HPA, FY 1997–99**



Animal Care Offices for FY 1999



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